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on a freight train to care for live stock the shipper would have a right to suppose that whoever was in charge of the train had authority to accept him as a passenger where there was no contract entered into for his passage. *L. S. & M. S. R. Co. v. Brown*, 123 Ill., 162. Such an act would be within the apparent scope of the conductor's authority in managing and controlling the train. *Lawson, Adm. v. Chicago, St. P., M. & O. R. Co.*, *supra*. In the principal case the terms of the shipping contract were very properly used to show a custom to carry a caretaker and ground for the plaintiff's *bona fide* belief in his right to a passage and the conductor's authority to accept him.

EVIDENCE—ADMISSIBILITY OF PHOTOGRAPHS.—*ZANCANELLA v. OMAHA & C. B. ST. R. CO.*, 142 N. W. (NEB.), 190. The plaintiff was injured after alighting from defendant's trolley car by being run over by another car on a parallel track. Trial court refused to allow defendant to introduce four photographs of the scene of the accident on the ground that it was capable of verbal description. *Held*, that this ruling was erroneous because photographs may come in at the discretion of the trial court and are not excluded because the place may be verbally described.

Any plan or picture or photograph made by the hand of man is admissible in evidence if verified by proof that it is a true representation of the subject. *Blair v. Inhabitants of Pelham*, 118 Mass., 420. A lapse of time before taking the photograph makes no difference if the changes are trivial and are explained. *Dyson, Adm. v. The N. Y. & N. E. R. Co.*, 57 Conn. 9; *Dederichs v. The Salt Lake City R. Co.*, 13 (Utah) Tanner, 34. But some courts have held that the *locus in quo* must be the same in the picture as at the time of the accident. *Columbia & P. D. R. Co. v. The State to the Use of Huff*, 105 Md., 34; *C. C. C. & St. L. R. Co. v. Monaghan*, 4 Ill. App., 498. It is, however, universally held that the pictures must be a fair representation and must be verified by competent witnesses. *Cowley v. People*, 83 N. Y., 464; *Archer v. The N. Y., N. H. & H. R. Co.*, 106 N. Y. App., 589. Alone they are testimonial nonentities—they must come in on the credibility of some witness. *Wigmore on Evidence*, Vol. I, sec. 790. The decision of the trial court is subject to review on appeal. *Archer v. The N. Y., N. H. & H. R. Co.*, *supra*; *Otis v. The State*, 30 Fla., 256. But in Massachusetts the decision of the trial court in regard to photographs is not open to exception. *Blair v. Inhabitants of Pelham*, 118 Mass., 420; *Commonwealth v. Coe*, 115 Mass., 481. The principal case is in accord with the weight of authority in leaving the question of admissibility to the trial court subject to review.

EVIDENCE—RES GESTAE—STATEMENT OF INJURED PERSON.—*GREENER v. GEN. ELECTRIC CO.*, 102 N. E. (N. Y.), 527.—In an action for the death of an employee caused by falling from a ladder, his statements, while lying on the floor after falling, in response to an inquiry as to what had happened, that his feet were broken and that the ladder bent over, were not admissible, since the declarations of an injured person are admissible only